

IN THE IOWA DISTRICT COURT FOR POWESHIEK COUNTY

<p>MATTHEW GANNAWAY and JESSICA GANNAWAY individually and as next friends to ETHAN GANNAWAY,</p> <p>Plaintiffs,</p> <p>v.</p> <p>GRINNELL-NEWBURG SCHOOL DISTRICT, JEFF KIRBY, TODD ABRAHAMSON, and NIKKI TEWS,</p> <p>Defendants.</p>	<p>CASE No.</p> <p><b>PETITION AND JURY DEMAND</b></p>
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COME NOW, the Plaintiffs, by and through counsel, on information and belief formed after an inquiry reasonable under the circumstances, and alleges against Defendants as follows:

**INTRODUCTION**

1. This action arises under Iowa Code Chapter 670, and the common law of Iowa.
2. This is an action by Ethan Gannaway, by and through his mother and father and two next friends Matthew Gannaway and Jessica Gannaway.

**PARTIES**

3. At all times material hereto, Plaintiff Matt Gannaway was a citizen and resident of Grinnell, Poweshiek County, Iowa.
4. At all times material hereto, Plaintiff Jessica Gannaway was a citizen and resident of Grinnell, Poweshiek County, Iowa.

5. At all times material hereto, Defendant JEFF KIRBY was a citizen and resident of Grinnell, Poweshiek County, Iowa and was the Principal of Davis Elementary School in Grinnell-Newburg School District in Grinnell, Iowa.
6. At all times material hereto, Defendant TODD ABRAHAMSON was a citizen and resident of Grinnell, Poweshiek County, Iowa and was the Superintendent of the Grinnell-Newburg School District in Grinnell, Iowa.
7. At all times material hereto, Defendant NIKKI TEWS was a citizen and resident of Grinnell, Poweshiek County, Iowa and was a counselor for Davis Elementary School in the Grinnell-Newburg School District in Grinnell, Iowa.
8. At all times material hereto, Defendant GRINNELL-NEWBURG SCHOOL DISTRICT was governed by a school board and was a not for profit, special purpose entity with its principal place of business in Grinnell, Iowa and is headquartered at 927 4th Avenue, Grinnell, Iowa 50112.

### **FACTUAL BACKGROUND**

9. Plaintiffs' son, Ethan Gannaway, is an eight year old male born on February 8, 2004.
10. In August of 2012, Ethan Gannaway entered the third grade class at Davis Elementary School in the Grinnell-Newburg School District.
11. At some time prior to September 26, 2012, Ethan was bullied and called names by another boy at Davis Elementary School, and was repeatedly subjected to conduct in violation of Iowa's Anti-Bullying Statute, I.C.A. § 280.28.
12. On September 26, 2012, when Plaintiff Matt Gannaway picked his son up at Davis Elementary School, Ethan appeared to be physically and emotionally upset, and Ethan told Plaintiff Matt Gannaway that he was being bullied by another boy at school.

13. On the morning of September 27, 2012, Plaintiff Matt Gannaway and Ethan Gannaway went to meet with DEFENDANT KIRBY to report the bullying, and during the course of their meeting the Plaintiff was informed by DEFENDANT KIRBY that Ethan should not be speaking to his principal about the bullying and should only speak to his teacher, Mrs. Asplund.
14. DEFENDANT KIRBY sent Plaintiff Matt Gannaway and Ethan out to the playground to identify the bully, and Plaintiff Matt Gannaway went up to the child identified by Ethan and the child told Plaintiff that his name was "Cody".
15. Plaintiff Matt Gannaway emailed Mrs. Asplund that the bully's name was Cody, and she replied that there was not a "Cody" registered at Davis Elementary School. Plaintiff Matt Gannaway responded by asking Mrs. Asplund via email to meet Ethan on the playground the next morning at 8am so that they could identify the bully.
16. Mrs. Asplund took offense to Plaintiff Matt Gannaway's request and forwarded plaintiff's email to DEFENDANT KIRBY who called Plaintiff and told him that they "had a problem".
17. Plaintiff Matt Gannaway then orally repeated his request to DEFENDANT KIRBY for a teacher to meet Ethan on the playground at 8am to identify the bully and DEFENDANT KIRBY only responded that he "did not like the tone of [Plaintiff Matt Gannaway's] email."
18. On September 28, 2012, Plaintiff Matt Gannaway dropped his son off at school at 8am and waited until the bell rang at 8:20am to see if a teacher would come out to identify the bully with Ethan. No one ever came to the playground to identify the child that was bullying Ethan.

19. Plaintiff Matt Gannaway, placed a phone call to DEFENDANT ABRAHAMSON at the Grinnell-Newburg School District Central Offices and was put into DEFENDANT ABRAHAMSON's voice mail and left a message with details of the situation.
20. At some time after Plaintiff Matt Gannaway's call to DEFENDANT ABRAHAMSON, someone at the central offices contacted DEFENDANT KIRBY to inform him of the Plaintiff's complaint.
21. DEFENDANT KIRBY then pulled Ethan Gannaway out of class and briefly searched for the bully during the 4th grade lunch recess, and when Ethan could not find the bully he was taken to DEFENDANT KIRBY's office.
22. DEFENDANT KIRBY yelled at Ethan and required him to repeat after him, "I will not lie again." He then called Plaintiff Matt Gannaway to inform him that DEFENDANT KIRBY had "broken down" Ethan's story and found some "discrepancies in the timeline." He accused Ethan of lying about being bullied. He had Ethan sit in a chair in the corner of his office and say "I will not lie again" over and over.
23. During the conversation with DEFENDANT KIRBY, Plaintiff Matt Gannaway could hear Ethan crying hysterically in the background and immediately drove to the school to check on his son.
24. When Plaintiff Matt Gannaway arrived at Davis Elementary he rang the doorbell and waited for nearly ten minutes before he was let into the building by a staff member.
25. Plaintiff Matt Gannaway walked to DEFENDANT KIRBY's office and said he was taking his son home from school. DEFENDANT KIRBY protested saying that there was "no reason to take Ethan home" and "it would be an unexcused absence."

26. When Plaintiff Matt Gannaway asked DEFENDANT KIRBY why his son was crying, DEFENDANT KIRBY said Ethan was afraid he was “going to get in trouble at home for lying”.
27. When Plaintiff Matt Gannaway took Ethan home he was pale, scared, shaking, physically sick, and began an episode of cyclic vomiting. He has suffered from cyclic vomiting syndrome, a life threatening condition that can be brought on by stress, fear, and anxiety, for the majority of his life.
28. Plaintiff Matt Gannaway then attempted to contact DEFENDANT ABRAHAMSON again to express his concern about DEFENDANT KIRBY and was again placed in DEFENDANT ABRAHAMSON’s voice mail.
29. Plaintiff Matt Gannaway sent an email to Ethan’s teacher Mrs. Asplund, DEFENDANT KIRBY, DEFENDANT TEWS, and DEFENDANT ABRAHAMSON informing them that he did not want Ethan in an office alone with any school official and wanted a parent present for any meetings that needed to occur between Ethan and a school official.
30. Over the extended Holiday weekend, Ethan was depressed, distant, physically sick, and continued to suffer from the episode of cyclic vomiting syndrome induced by the erroneous accusations and intimidation by DEFENDANT KIRBY.
31. On Tuesday October 2, 2012, Ethan returned to school and went to see DEFENDANT TEWS to see if she could help him identify the bully, and DEFENDANT TEWS came out to the playground and Ethan pointed out the bully to DEFENDANT TEWS.
32. Ethan and DEFENDANT TEWS then went back inside the school and Ethan was taken to the defendant’s counseling office where DEFENDANT TEWS informed him that there “were little problems and there were big problems” and that the “big problem here was

- that Ethan was a liar and had lied.” This was untrue, but the administration continued to accuse Ethan of lying.
33. As a result of DEFENDANT TEWS’ threatening conduct Ethan became physically and emotionally sick once again and told Plaintiff Matt Gannaway that he was “afraid of school”.
34. Plaintiff Matt Gannaway took Ethan home and attempted to contact DEFENDANT ABRAHAMSON over the phone and was once again sent directly to his voicemail. Plaintiff then emailed Bryan Darnall at the Iowa Department of Education.
35. On October 3, 2012 Nicole Proesh at the Department of Education responded to Plaintiff Matt Gannaway’s email to Bryan Darnall and said that the Plaintiff needed to go through the School Board to solve his son’s issues at Davis Elementary School.
36. She copied DEFENDANT ABRAHAMSON into her response to Plaintiff Matt Gannaway’s email, and as a result, DEFENDANT ABRAHAMSON called Plaintiff and said he was “investigating the whole time” but refused to even take the time to listen to Plaintiff’s concerns.
37. After a series of emails between Plaintiff Matt Gannaway, School Board’s President Jeff Smith, Vice President Doug Cameron, and Member Cathy Wilhelm a meeting was set up between Plaintiffs Jessica and Matt Gannaway and DEFENDANT ABRAHAMSON, Jeff Smith, Doug Cameron and Barbara Cobb, Ethan’s grandmother, to take place on October 10, 2012.
38. Between October 4, 2012 and October 10, 2012 Ethan missed a lot of school and was constantly vomiting, shaking, depressed, anxious, nervous, scared, extremely apologetic,

suffered from screaming nightmares, and had to sleep on the floor in his parents' bedroom.

39. On the night before the Plaintiffs' meeting with DEFENDANT ABRAHAMSON, Jeff Smith, and Doug Cameron, Ethan told Plaintiff Jessica Gannaway that he hoped DEFENDANT KIRBY was not going to be there because "he is a mean man" and Ethan did not want DEFENDANT KIRBY to "hurt mommy like he hurt him."

40. At the meeting on October 10, 2012 a plan was created to help Ethan through this troubling time and DEFENDANT ABRAHAMSON told the Plaintiffs that DEFENDANT KIRBY would have "no contact with Ethan."

41. The plan included: 1) contacting the AEA to help Ethan, 2) setting up a 504 plan for Ethan, 3) having a counselor from another school come talk to Ethan, 4) having privately proctored tests for Ethan, 5) providing soy milk at school for Ethan, and 6) School Board member David Cameron contacting a child psychologist, Jana Brown, for the family. Only the test proctoring, getting soy milk for Ethan, and getting Ethan to see Jana Brown was ever put into effect.

42. Between October 10, 2012 and October 20, 2012 Ethan was only able to attend two days of school and continued to suffer from severe emotional and physical distress and began to see a private counselor.

43. Despite DEFENDANT KIRBY being directed to not have contact with Ethan, DEFENDANT KIRBY had several periods of unauthorized, purposeful, intimidating contact with Ethan in retaliation for the Plaintiffs' complaints which made Ethan's emotional and physical distress worse.

44. Several different times during the school day DEFENDANT KIRBY purposefully walked by Ethan and stared at him.
45. On one day in which Ethan got sick at school and was waiting for this father to pick him up Ethan was waiting on a bench outside DEFENDANT KIRBY's office in the reception area of the school and DEFENDANT KIRBY came and sat next to Ethan without saying a single word until Plaintiff Matt Gannaway arrived to take Ethan home.
46. All of the aforementioned incidents directly contributed to Ethan's substantial fear of school, and fear of DEFENDANTS KIRBY and TEWS.
47. On October 31, 2012, after DEFENDANT ABRAHAMSON refused to directly communicate with Plaintiff Matt Gannaway, Plaintiff and his 16 month old child went to the central district offices to speak to DEFENDANT ABRAHAMSON about the school district's failure to implement the plan discussed at the October 10, 2012 meeting.
48. DEFENDANT ABRAHAMSON saw Plaintiff Gannaway enter the district office and immediately called the police with absolutely no indication of a threat by Plaintiff Matt Gannaway.
49. Over the course of the next two days, DEFENDANT ABRAHAMSON and the School District had the police serve two separate criminal trespass notices on Plaintiff Matt Gannaway which forbid him from being on any school property, and prevented him attending Ethan's parent-teacher conferences.
50. Following the trespass orders being placed on the Plaintiffs, Ethan Gannaway was removed from school by his parents, and the process for open enrollment in the East Marshall School District was started.



51. At some point between November 1, 2012 and November 14, 2012, DEFENDANT ABRAHAMSON refused to sign the open enrollment forms for all three of the Gannaway's children enrolled in the school district and turned the matter over to the school board.
52. Finally, on November 14, 2012 the school board voted to sign the open enrollment forms and the Gannaway children started school in the East Marshall School District on November 19, 2012.
53. Despite being removed from Davis Elementary, Ethan continues to suffer from physical and emotional illnesses and is even terrified to be driven down the street that Davis Elementary is located on.
54. Having to remove their children from the Grinnell-Newburg School District has placed immense pressure and strains on the Gannaway family including extending their commute time by over 25 minutes each way, uprooting their entire family, disrupting the education of their children, and significant medical bills incurred in taking care of Ethan.

**COUNT I**  
**BULLYING AGAINST INDIVIDUAL DEFENDANTS**

55. According to I.C.A. § 280.28, bullying is any electronic, written, verbal or physical act or conduct toward a student which is based on any actual or perceived trait or characteristics of the student and which creates an objectively hostile school environment that meets one or more of the following conditions:
- a. Places the student in reasonable fear of harm to the student's person or property.
  - b. Has a substantially detrimental effect on the student's physical or mental health.
  - c. Has the effect of substantially interfering with a student's academic performance.

- d. Has the effect of substantially interfering with the student's ability to participate in or benefit from the services, activities, or privileges provided by a school.
56. Plaintiffs' son was targeted as a result of his characteristics as he was physically smaller, and the perceived characteristic of being dishonest.
57. He was then also targeted in retaliation for his parents' complaints to Defendant KIRBY, Defendant ABRAHAMSON, the School Board, and Mrs. Asplund regarding the bullying their son was being subjected to on the playground.
58. Individual DEFENDANTS physically harmed Plaintiffs' son based on Plaintiffs' son's trait and perceived traits. This created a hostile school environment that caused Plaintiffs' son to have to open enroll in another school district.
59. Individual DEFENDANTS conduct and actions placed Plaintiffs' son in reasonable fear of harm to his person or property.
60. Individual DEFENDANTS conduct and actions had a substantially detrimental effect on Plaintiffs' son's physical and mental health.
61. Individual DEFENDANTS conduct and actions substantially interfered with the Ethan's academic performance, as he had to stop attending school until he was open enrolled in another school district to escape Defendants KIRBY and TEWS' bullying.
62. Individual DEFENDANTS conduct and actions substantially interfered with Ethan's ability to participate in or benefit from the services, activities, or privileges provided by a school.
63. The Defendants' conduct was the direct and proximate cause of the injuries and damages sustained by the Plaintiffs and Ethan.
64. As a proximate result of the acts aforesaid, Plaintiffs and Ethan have suffered severe and painful permanent injuries, has endured and will continue to endure great physical and

mental pain, physical and mental disability and loss of enjoyment of life and has in the past and will in the future incur expenses for medical, hospital, physical therapy, drugs and medication for the treatment of said injuries, and has lost time from his studies.

65. Individual DEFENDANTS actions were willful, wanton or reckless and punitive damages are warranted in an amount that will punish them and deter them and others from like conduct.

WHEREFORE, Plaintiffs request judgment against Defendants in an amount which will fully and fairly compensate them for their injuries and damages, and for punitive damages against the Individual Defendants in an amount sufficient to punish the Defendants and deter the Defendants and others from the same or similar wrongful conduct, and for interest and costs as allowed by law and such other relief as may be just in the premises.

**COUNT II**  
**PROCEDURAL AND SUBSTANTIVE DUE PROCESS—IOWA STATE CONSTITUTION**  
**ARTICLE I, § 9 AGAINST ALL DEFENDANTS**

66. The Constitution of the State of Iowa guarantees that no person shall be deprived of life, liberty or property, without due process of law.

67. Plaintiffs' son had a protected liberty interest in being a student at Davis Elementary School in Grinnell, Iowa.

68. The Defendants acting under color of law deprived Plaintiffs' son of his constitutionally protected liberty interest without due process of law by bullying and harassing Plaintiffs' son and causing him to have to leave his neighborhood school and to open enroll in another school district.

69. The actions and omissions of the Defendants are the proximate cause of injury and damage to Plaintiffs' son.

70. As a direct and proximate result of the Defendants' acts aforesaid, Plaintiffs were forced to abide by an abusive criminal no trespass order, Plaintiffs' and their son have in the past and will in the future suffer medical expenses, mental and emotional harm and anguish, anxiety, fear, depression, loss of enjoyment of life, degradation, disgrace, uncertainty, apprehensiveness, grief, and restlessness, pain and suffering, and have in the past and will in the future suffer loss of full use of mind and body, and loss of time from his studies.

71. Defendants' actions against Plaintiffs and their son were willful and wanton, and done with malice or in reckless disregard of the rights of Plaintiffs and their son, thus entitling them to punitive damages against the Individual Defendants.

WHEREFORE, Plaintiffs demands judgment against the Defendants jointly and severally in an amount that will fully and fairly compensate for Plaintiffs injuries and damages, for punitive damages against the Individual Defendants in an amount sufficient to punish them and deter them and others from the same or similar wrongful conduct, attorney's fees, court costs, interest as allowed by law, and for such other appropriate relief as the court finds may be just and equitable.

**COUNT III**  
**EQUAL PROTECTION VIOLATION—IOWA STATE CONSTITUTION ARTICLE I, § 6**  
**AGAINST ALL DEFENDANTS**

72. The Iowa Constitution guarantees all persons equal protection of the laws.

73. The Defendants deprived Plaintiffs' son of equal protection of the laws by engaging in a continuous practice of bullying, harassing, and discriminating against individuals based on their perceived characteristics, including Plaintiffs' son.

74. The deprivation of Plaintiffs' and their son's Equal Protection guarantee, found in the Iowa Constitution, was the direct result of the policy, practice, or custom of the Defendants.

75. Unequal treatment based on bullying, harassment, and discrimination is subject to rational basis scrutiny under the Iowa Constitution.

76. The course of conduct taken by or attributable to the Defendants was not rationally related to a legitimate purpose. Accordingly, the conduct violates the Equal Protection guarantee found in the Iowa Constitution.

77. The actions and omissions of the Defendants are the proximate cause of injury and damage to Plaintiffs' son.

78. As a direct and proximate result of the Defendants' acts aforesaid, Plaintiffs were forced to abide by an abusive criminal no trespass order, Plaintiffs' and their son have in the past and will in the future suffer medical expenses, mental and emotional harm and anguish, anxiety, fear, depression, loss of enjoyment of life, degradation, disgrace, uncertainty, apprehensiveness, grief, and restlessness, pain and suffering, and have in the past and will in the future suffer loss of full use of mind and body, and loss of time from his studies.

Plaintiffs have in the past and will in the future incur medical expenses.

79. Defendants' actions against Plaintiffs' son were willful and wanton, and done with malice or in reckless disregard of the rights of Plaintiffs' son, thus entitling them to punitive damages against the Individual Defendants.

WHEREFORE, Plaintiffs demand judgment against the Defendants jointly and severally in an amount that will fully and fairly compensate for Plaintiffs injuries and damages, for punitive damages against the Individual Defendants in an amount sufficient to punish them and deter them

and others from the same or similar wrongful conduct, attorney's fees, court costs, interest as allowed by law, and for such other appropriate relief as the court finds may be just and equitable.

**COUNT IV**  
**BREACH OF FIDUCIARY DUTY AS TO ALL DEFENDANTS**

80. Defendants had a fiduciary relationship built on trust and confidence with the Plaintiffs to care for the wellbeing of the Plaintiffs' son while he was on school grounds, attending classes, and under the care of the Individual Defendants.
81. While at school, the Defendants were supposed to act on behalf of the Plaintiffs in caring for the wellbeing of their son.
82. Defendants were in charge of creating a safe and secure learning environment for the Plaintiffs' son.
83. Defendants were responsible for investigating any and all potential harms to the welfare of Plaintiffs' son.
84. Defendants breached their fiduciary duty to the Plaintiffs in the following particulars:
- a. Defendants failed to provide for Ethan Gannaway's welfare by failing to properly investigate claims of bullying;
  - b. Defendants failed to provide for Ethan Gannaway's welfare by failing to respond to the needs of Ethan in a timely and adequate manner;
  - c. Defendants failed to provide for Ethan Gannaway's safety by bullying, harassing, and discriminating against him at Davis Elementary School and harming Ethan's physical and mental wellbeing;
  - d. Defendants failed to provide adequate counseling and support for Ethan Gannaway following his injuries;

- e. Defendants failed to prevent contact between Ethan Gannaway and his bullies; and
- f. Defendants failed to provide a safe and secure learning environment for Ethan Gannaway.

85. The actions and omissions of the Defendants are the proximate cause of injury and damage to Plaintiffs' son.

86. As a direct and proximate result of the Defendants' acts aforesaid, Plaintiffs were forced to abide by an abusive criminal no trespass order, Plaintiffs' and their son have in the past and will in the future suffer medical expenses, mental and emotional harm and anguish, anxiety, fear, depression, loss of enjoyment of life, degradation, disgrace, uncertainty, apprehensiveness, grief, and restlessness, pain and suffering, and have in the past and will in the future suffer loss of full use of mind and body, and loss of time from his studies.

87. Defendants' actions against Plaintiffs' son were willful and wanton, and done with malice or in reckless disregard of the rights of Plaintiffs' son, thus entitling them to punitive damages against the Individual Defendants.

WHEREFORE, Plaintiffs demands judgment against the Defendants jointly and severally in an amount that will fully and fairly compensate for Plaintiff's injuries and damages, for punitive damages against the Individual Defendants in an amount sufficient to punish them and deter them and others from the same or similar wrongful conduct, attorney's fees, court costs, interest as allowed by law, and for such other appropriate relief as the court finds may be just and equitable.

**COUNT V**  
**TORTIOUS INFLICTION OF SEVERE EMOTIONAL DISTRESS**

88. Throughout the times and acts alleged, Defendants were aware of the physical illness and mental pain that Plaintiffs' son was suffering as a result of the Defendants' outrageous acts, conduct and omissions.

89. Despite such knowledge, Defendants continued to engage in a pattern of outrageous behavior towards the Plaintiffs' son by bullying, harassing, intimidating, discriminating, and retaliating against him.
90. Defendants acted with reckless disregard of the probability of causing severe emotional distress to the Plaintiffs' son.
91. Plaintiffs' son, Ethan, suffered severe emotional distress manifesting itself in the form of fear, depression, nervousness, anxiety, physical illness, sadness, anguish, dismay, disgrace, uncertainty, grief, restlessness, apprehensiveness, and exacerbation of his preexisting cyclic vomiting syndrome.
92. The Defendants outrageous conduct, acts, and omissions were the proximate cause of injury and damage to Plaintiffs' son.
93. As a direct and proximate result of the Defendants' acts aforesaid, Plaintiffs were forced to abide by an abusive criminal no trespass order, Plaintiffs' and their son have in the past and will in the future suffer medical expenses, mental and emotional harm and anguish, anxiety, fear, depression, loss of enjoyment of life, degradation, disgrace, uncertainty, apprehensiveness, grief, and restlessness, pain and suffering, and have in the past and will in the future suffer loss of full use of mind and body, and loss of time from his studies.
94. Defendants' actions against Plaintiffs' son were willful and wanton, and done with malice or in reckless disregard of the rights of Plaintiffs' son, thus entitling them to punitive damages against the Individual Defendants.

WHEREFORE, Plaintiffs demands judgment against the Defendants jointly and severally in an amount that will fully and fairly compensate for Plaintiff's injuries and damages, for punitive damages against the Individual Defendants in an amount sufficient to punish them and deter them



and others from the same or similar wrongful conduct, attorney's fees, court costs, interest as allowed by law, and for such other appropriate relief as the court finds may be just and equitable.

**COUNT VI**  
**PROFESSIONAL NEGLIGENCE AS TO DEFENDANTS KIRBY AND TEWS**

95. DEFENDANTS KIRBY and TEWS at all times material hereto held themselves out to the public, including Plaintiffs and their son, as being school administrators and counselors having special knowledge, training, and skill in the education, supervision, care , and counseling of children while working for DEFENDANT SCHOOL DISTRICT.

96. Plaintiffs and their son relied upon DEFENDANTS KIRBY and TEWS as having special knowledge, training, and skill in the education, supervision, care, and counseling of children, and as capable of providing the degree of care, skill, and knowledge as others in their field.

97. DEFENDANTS KIRBY AND TEWS were negligent in the following particulars:

- a. Failure to prevent and participating in the bullying, harassment, intimidation, discrimination, and retaliation against Ethan Gannaway;
- b. Failure to provide proper care and supervision of Ethan Gannaway;
- c. Failure to act to prevent harm to Ethan Gannaway; and
- d. Failure to provide Ethan Gannaway with the care, education, supervision, and counseling consistent with the applicable standards of their profession.

98. The negligence of the Individual Defendants was a proximate cause of the injuries and damages to Plaintiffs' son.

99. As a direct and proximate result of the Defendants' acts aforesaid, Plaintiffs were forced to abide by an abusive criminal no trespass order, Plaintiffs' and their son have in the past and will in the future suffer medical expenses, mental and emotional harm and anguish, anxiety, fear, depression, loss of enjoyment of life, degradation, disgrace, uncertainty, apprehensiveness, grief, and restlessness, pain and suffering, and have in the past and will in the future suffer loss of full use of mind and body, and loss of time from his studies.

100. Defendants' actions against Plaintiffs' son were willful and wanton, and done with malice or in reckless disregard of the rights of Plaintiffs' son, thus entitling them to punitive damages against the Individual Defendants.

WHEREFORE, Plaintiffs demands judgment against the Defendants jointly and severally in an amount that will fully and fairly compensate for Plaintiff's injuries and damages, for punitive damages against the Individual Defendants in an amount sufficient to punish them and deter them and others from the same or similar wrongful conduct, attorney's fees, court costs, interest as allowed by law, and for such other appropriate relief as the court finds may be just and equitable.

**COUNT VII**  
**ABUSE OF PROCESS AGAINST ALL DEFENDANTS**

101. The Defendants intentionally used the Grinnell Police Department to serve Plaintiff Matt Gannaway with two separate criminal trespass orders.

102. The process utilized by the Defendants is strictly for the purpose of ensuring the safety of those persons and places listed in the criminal trespass orders from any legitimate threat.

103. Plaintiff Matt Gannaway did not in any way present a threat to the safety of the school district, its staff, or the children served by the district, and none of the Plaintiff's actions could reasonably be construed as a legitimate threat.

104. The intent behind the trespass orders was primarily to harass, bully, discriminate, and retaliate against Plaintiff Matt Gannaway for his complaints regarding the bullying, harassment, discrimination, and retaliation against his son Ethan.

105. The abuse of process by the Defendants was a proximate cause of the injuries and damages to the Plaintiffs and their son.

106. As a direct and proximate result of the Defendants' acts aforesaid, Plaintiffs were forced to abide by an abusive criminal no trespass order, Plaintiffs' and their son have in the past and will in the future suffer medical expenses, mental and emotional harm and anguish, anxiety, fear, depression, loss of enjoyment of life, degradation, disgrace, uncertainty, apprehensiveness, grief, and restlessness, pain and suffering, and have in the past and will in the future suffer loss of full use of mind and body, and loss of time from his studies.

107. Defendants' actions against Plaintiffs' son were willful and wanton, and done with malice or in reckless disregard of the rights of Plaintiffs' son, thus entitling them to punitive damages against the Individual Defendants.

WHEREFORE, Plaintiffs demands judgment against the Defendants jointly and severally in an amount that will fully and fairly compensate for Plaintiff's injuries and damages, for punitive damages against the Individual Defendants in an amount sufficient to punish them and deter them and others from the same or similar wrongful conduct, attorney's fees, court costs, interest as allowed by law, and for such other appropriate relief as the court finds may be just and equitable.

#### **JURY DEMAND**

The Plaintiff hereby demands a trial by jury of all of the issues arising out of the matters pled herein.

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